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RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the
17th November, 1964:—

BILL No. XXVI OF 1964

A Bill further to amend the Official Trustees Act, 1913.

BE it enacted by Parliament in the Fifteenth Year of the Republic
of India as follows:—

1. This Act may be called the Official Trustees (Amendment) Short title.
Act, 1964.

2 of 1913. 2. In the Official Trustees Act, 1913 (hereinafter referred to as Omission
the principal Act), the Preamble shall be omitted. of Pre-
amble.

3. In section 2 of the principal Act, clause (2) shall be omitted. Amend-
ment of
section 2.

4. In Part I of the principal Act, after section 2, the following sec- Insert-
tion shall be inserted, namely:— tion of
new sec-
tion 3.

2 of 1882. “3. The High Court shall, in respect of proceedings instituted Extent of
by or against the Official Trustee under this Act or the Indian jurisdic-
Trusts Act, 1882, be a competent Court throughout the terri- tion
tories in relation to which it exercises civil appellate jurisdiction: of High
Court.

Provided that nothing in this section shall be construed as
affecting the jurisdiction of any district court.”

Amend-
ment of
section 4.

5. For sub-section (2) of section 4 of the principal Act, the following sub-section shall be substituted, namely:—

“(2) No person shall be appointed to the office of Official Trustee unless he has been for at least—

- (a) seven years, an advocate; or
- (b) seven years, an attorney of a High Court; or
- (c) ten years, a member of the judicial service of a State;

or

- (d) five years, a Deputy Official Trustee”.

Amend-
ment of
section 5.

6. Section 5 of the principal Act shall be re-numbered as sub-section (1) of that section, and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) No person shall be appointed as a Deputy unless he has been for at least three years—

- (a) an advocate; or
- (b) an attorney of a High Court; or
- (c) a member of the judicial service of a State.”.

Amend-
ment of
section 10.

7. In sub-section (3) of section 10 of the principal Act, the words and figures “the Trustees’ and Mortgagees’ Powers Act, 1866, or” shall be omitted.

28 of 1866.

Amend-
ment of
section 12.

8. In sub-section (1) of section 12 of the principal Act, for the word “infant”, the word “minor” shall be substituted.

Amend-
ment of
section 13.

9. In sub-section (2) of section 13 of the principal Act,—

- (a) the words “or Deputy Official Trustee” shall be omitted;
- (b) for the words “the Official Trustee’s personal knowledge”, the words “his personal knowledge” shall be substituted.

Amend-
ment of
section 15.

10. In section 15 of the principal Act, the words “revenues of the”, wherever they occur, shall be omitted.

Amend-
ment of
section 17.

11. In section 17 of the principal Act,—

- (a) the proviso to sub-section (1) shall be omitted;
- (b) in sub-section (2), the words “the revenues of” shall be omitted.

12. In section 19 of the principal Act, for clause (a) of sub-section (2), the following clause shall be substituted, namely:—

Amend-
ment of
section 19.

“(a) whether the accounts have been audited in the prescribed manner, and whether, so far as can be ascertained by such audit, the accounts contain a full and true account of everything which ought to be contained therein;”.

13. In section 25 of the principal Act, for the word “interest”, the word “income” shall be substituted.

Amend-
ment of
section 25.

14. In section 30 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:—

Amend-
ment of
section 30.

“(4) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

STATEMENT OF OBJECTS AND REASONS

The Law Commission, in its Sixteenth Report, recommended certain changes in the Official Trustees Act, 1913. The following are the main changes recommended by the Commission:—

1. Under section 3 of the Official Trustees Act, 1913, the High Court had for the purposes of the Act jurisdiction throughout the State. This section, however, was omitted by the Adaptation of Laws (No. 2) Order, 1956. The Commission has suggested restoration of this section in a slightly modified form so as to remove the inconvenience experienced by the Official Trustees in having to approach different district courts in the performance of their duties. The concurrent jurisdiction of the district court is not however touched so that an Official Trustee will also be able to approach the district court in the performance of his duties, if that is convenient to him in any case.

2. Section 4 of the Act provides for appointment of Official Trustees and prescribes the qualifications of Official Trustees. Section 5 of the Act provides for appointment of Deputy Official Trustees but it does not prescribe any qualifications for them. Keeping in mind the changed conditions under which persons with requisite qualifications are easily available and also the functions to be performed by Official Trustees and Deputy Official Trustees, the Commission has recommended that the qualifications for Official Trustees should be revised and those for Deputy Official Trustees should be prescribed.

The other changes suggested are of a drafting or routine nature.

The Bill seeks to give effect to these recommendations of the Law Commission.

NEW DELHI;
The 28th October, 1964.

A. K. SEN.

B. N. BANERJEE,
Secretary.